

**REMARKS**

Claims 2-3, 6-8 and 10-15 are pending. Claims 1, 4, 5 and 9 are cancelled. Claims 2, 3 and 6-8 are amended to recite a subject matter that the Examiner may determine is not within the scope of the restriction requirement, and are therefore now withdrawn. See request for rejoinder, below.

New claims 10-12 are based on previous claims 2-3 and more particularly require that the cell is an H0c2 rat cardiac myoblast transfected with a vector expressing a CypA gene, and claim 12 further requires that the transfected myoblast has the recited designation. Support for new claims 10-12 is fully provided by the specification, and specific enablement is provided by Example 5.

New claims 13-15 are based on previous claims 6-8 and more particularly require that the cell is an H0c2 rat cardiac myoblast transfected with a vector expressing a CypA gene, and claim 15 further requires that the transfected myoblast has the recited designation. Support for new claims 13-15 is fully provided by the specification, and specific enablement is provided by Example 5.

No new matter is added.

**THE REJECTIONS UNDER 35 USC §112,  
SECOND PARAGRAPH ARE OBVIATED**

At page 3 of the Office Action, claims 4 and 6 are rejected under 35 USC §112, second paragraph, as allegedly indefinite for reciting "the transplantation." Claims 4 and 6 are amended, thus obviating this ground of rejection. It is submitted that this basis for rejection is not found in any of the currently pending claims.

For all of these reasons, reconsideration and withdrawal of this ground of rejection is respectfully requested.

**THE REJECTION OVER HONG  
UNDER 35 USC §102(a) IS OBVIATED**

At page 4 of the Office Action, claims 2-6 and 8 are rejected under 35 U.S.C. 102(a) as allegedly anticipated by Hong et al. (FASEB J. August 7, 2002).

In response, Applicants note that Hong et al. is derived from the work of the instant co-inventors, and request that the instant U.S. patent application be given the benefit of the South Korean priority filing date of November 11, 2002, in application number 10-2002-0069822.

To that end, an English language translation of priority application number 10-2002-0069822 is enclosed herewith. Since the priority date is less than one year (about 3 months) after the August 7, 2002 date of publication of Hong et al., Applicants also provide herewith the Declaration of Kim Sung Soo Under 37 CFR §1.132 [according to *In re Katz*, 687 F.2d 450, 215 USPQ 14 (CCPA 1982)] attesting that the Hong et al. publication represents the work of the instantly named co-inventors, and that the other named authors of Hong et al. are not co-inventors. The Examiner's attention is respectfully directed to the discussion of *In re Katz* provided by MPEP § 2132.01.

For all of these reasons, it is respectfully urged that this ground of rejection is now obviated by the removal of Hong et al. as a reference.

THE CLAIMS ARE NOVEL  
IN VIEW OF SCHREIBER ET AL.

At page 5 of the Office Action, claims 2-6 and 8 are rejected under 35 U.S.C. 102(e) as allegedly anticipated by U.S. Patent No. 6,982,082 B1 (Schreiber et al.). The Examiner states that

Schreiber teaches a composition comprising a recombinant expression vector which encodes and expresses unmodified cyclophilin (CypA) as well as other modified cyclophilins which are functional (the functional modified cyclophilins would necessarily have PPlase activity) wherein the modified cyclophilins have been modified such that they bind to specific modified cyclosporins, (e.g., see Example 2, columns 40-42, especially column 41 lines 10-55 and column 42, lines 9-11 as well as columns 17-22).

Claims 2-6 and 8 are amended, thus obviating this ground of rejection. In the interest of expeditious prosecution, Applicants respectfully direct the Examiner's attention to the new claims provided hereinabove. It is submitted that that record does not reflect that the specific host cell and vector recited by claims 10-15 are described or suggested by Schreiber et al. Thus, it is urged that the pending claims are novel in view of Schreiber et al.

For all of these reasons, reconsideration and withdrawal of the instant rejections is respectfully requested.

## REQUEST FOR REJOINDER

Applicants respectfully request that withdrawn claims 2, 3 and 6-8 be rejoined with the remaining claims of the instantly prosecuted restriction Group II. It is urged that a search of the withdrawn claims would overlap with the search that has already been conducted, and therefore a search of the withdrawn claims is urged not to create an undue burden on the Examiner.

## CONCLUSION

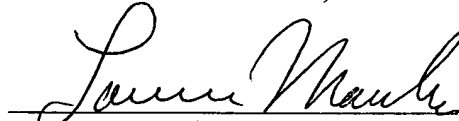
This response is being filed with a Petition for Extension of Time for Three Months. With the above-provided claim amendments, there are now two independent claims and a total of 11 claims. Thus, no further fees are believed to be required for entry of the instant Amendment. If, on the other hand, it is determined that any further fees are due or any overpayment has been made, the Commissioner is hereby authorized to debit or credit such sum to Deposit Account No. 02-2275.

Pursuant to 37 C.F.R. 1.136(a)(3), please treat this and any concurrent or future reply in this application that requires a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. The fee associated therewith is to be charged to Deposit Account No. 02-2275.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

LUCAS & MERCANTI, LLP



Laurence Manber

Reg. No. 35,597